



# Agriculture (Miscellaneous War Provisions) Act 1940

## 1940 CHAPTER 14

### PART IV

#### MISCELLANEOUS AND GENERAL

#### **23 Provisions as to requisitioned land**

- (1) Where, whether before or after the commencement of this Act,—
  - (a) possession has been taken of any land for agricultural purposes by the Minister or the War Agricultural Executive Committee for the county or county borough in which the land is situated (hereafter in this section referred to as "the Committee") in the exercise of any power conferred by regulations made under the Emergency Powers (Defence) Act, 1939; and
  - (b) the Minister, on the advice of the Committee, has certified that at the time possession was so taken, the land was not being cultivated, or was not being cultivated in accordance with the rules of good husbandry;the following provisions of this section shall have effect as respects that land.
- (2) The Minister or the Committee may, after and notwithstanding the expiry of the said Act, continue in possession of the land, either by himself or themselves, or by any person with whom a contract has been made under the following provisions of this section, for any period not exceeding three years from the end of the war period.
- (3) For the purpose of the Compensation (Defence) Act, 1939, the powers conferred by the last foregoing subsection shall be deemed to be emergency powers within the meaning of that Act, and there shall be paid out of moneys provided by Parliament any increase attributable to the passing of this subsection in the sums authorised to be so paid by way of compensation under that Act.
- (4) The Minister or the Committee, may, at any time before the end of the war period, make a contract for the occupation of the land by any person for any period expiring, or terminable by the Minister or the Committee, before the end of the said three years; and

any such contract may incorporate with or without modifications any of the provisions of the Agricultural Holdings Act, 1923.

- (5) When possession of the land is given up, the owner thereof shall be liable to pay to the Minister within one month after the date of a demand made in writing by the Minister a sum equal to so much of the value of the land as is attributable to anything done on the land either—

- (a) by the Minister or the Committee; or
- (b) in a case where such a contract as aforesaid has been made, by the person occupying the land by virtue of the contract;

for the purpose of enabling the land to be properly farmed, or of securing increased efficiency in the farming of the land:

Provided that an owner by whom any sum is so payable may by notice in writing served on the Minister within the said one month elect to pay the said sum, together with interest thereon from the said date, by such number of equal annual instalments not exceeding five as may be specified in the notice, so, however that—

- (i) the first such instalment shall be paid within one year from the said date; and
- (ii) the rate of interest shall, in default of agreement between the owner and the Minister, be fixed by the Treasury.

- (6) Any question whether any amount is payable under the last foregoing subsection, or as to what amount is so payable, shall, in default of agreement, be determined by a single arbitrator appointed by agreement between the parties, or, in default of such agreement, by the President of the Chartered Surveyors' Institution, and, in determining any such question, the arbitrator shall be entitled to take into consideration any reasonable use to which the owner proves that he intends to put the land.
- (7) Any amount payable to the Minister under subsection (5) of this section shall be a charge on the land in respect of which it is payable, and the Minister shall, for the purpose of enforcing the charge, have the same powers and remedies under the Law of Property Act, 1925, and otherwise as he would have if he were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases, and of appointing a receiver.
- (8) For the purposes of this section, the expression " rules of good husbandry " has the same meaning as it has for the purpose of the Agricultural Holdings Act, 1923, or, in relation to land which is not an agricultural holding, the meaning which it would have for the purpose of that Act if the land were such a holding.

## **24 Antedating of directions to plough up land**

Where, before the thirty-first day of March nineteen hundred and forty, directions have been given in writing by a War Agricultural Executive Committee purporting to exercise powers conferred upon them under the Emergency Powers (Defence) Act, 1939, to require the ploughing up of any land comprised in an agricultural holding, and—

- (a) before the directions were given, the land had already been ploughed up or the ploughing up thereof had already begun; and
- (b) the ploughing up of the land was begun after the second day of September nineteen hundred and thirty-nine;

then, for the purposes of determining the rights and liabilities of the landlord and the tenant of the holding, the directions shall be deemed to have been given in pursuance of the said powers immediately before the ploughing up of the land was begun.

## **25 Expenses of Minister in providing goods and services required for agriculture**

- (1) If, at any time before the end of the war period, arrangements are made by the Minister with the consent of the Treasury, with a view to increasing the production of food in the United Kingdom or any part thereof, for providing goods or services to persons requiring them for agricultural purposes, any expenses incurred by the Minister in connection with the provision of goods or services in accordance with the arrangements shall be defrayed out of moneys provided by Parliament.
- (2) Particulars of any such arrangements shall be laid before Parliament by the Minister as soon as may be after they are made.

## **26 Exclusion of certain holdings from Agricultural Holdings Act**

- (1) Nothing in the Agricultural Holdings Act, 1923, shall apply to a contract of tenancy of land for a term not exceeding four years beginning after the commencement of this Act and before the end of the war period, if—
  - (a) the contract of tenancy provides for the cultivation of the land as arable land and, in a case where immediately before the beginning of the said term the land consisted of permanent pasture, for the sowing by the tenant of permanent grass seeds along with the last or way going crop; and
  - (b) immediately before the commencement of this Act and thereafter until the beginning of the said term either—
    - (i) the land was not being used for agricultural purposes; or
    - (ii) the land was being so used in pursuance of a letting not being a contract of tenancy within the meaning of the said Act; or
    - (iii) the land consisted of permanent pasture and was occupied by the landlord.
- (2) Where, as respects any contract of tenancy made before the commencement of this Act and after the second day of September nineteen hundred and thirty-nine, the landlord satisfies an arbitrator appointed under the Agricultural Holdings Act, 1923—
  - (a) that that Act would not apply to the contract by virtue of subsection (1) of this section if references to the said second day of September were substituted in that subsection for references to the commencement of this Act; and
  - (b) that the parties to the contract intended, notwithstanding anything in that Act, that that Act or any provision thereof should not apply to the contract;then that Act or that provision thereof, as the case may be, shall not apply to the contract of tenancy.

## **27 Extension of land fertility scheme to gardens**

- (1) Any land wholly or mainly cultivated for the production of vegetables or fruit shall, notwithstanding that it is not included in the definition of " agricultural land " contained in section thirty-two of the Agriculture Act, 1937, be deemed to be agricultural land for the purpose of the following provisions of that Act, namely—

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- (a) Part I of that Act (which provides for contributions out of moneys provided by Parliament towards the cost incurred by occupiers of agricultural land in acquiring lime or basic slag); and
- (b) paragraph (a) of subsection (1) of section twenty-nine of that Act (which provides for the inspection of any agricultural land in respect of which such a contribution has been applied for or made);

and accordingly paragraph (e) of subsection (1) of section three of the said Act (which enables certain associations to be treated as if they were occupiers of agricultural land) shall have effect as if associations of occupiers of any land so cultivated were included among the associations mentioned in that paragraph.

- (2) Provision may be made by the Land Fertility Scheme made under the said Part I for enabling any such council as is mentioned in section twenty-one of the Land Settlement (Facilities) Act, 1919 (which empowers certain councils to purchase fertilisers for resale to the cultivators of allotments) to be treated in such cases as may be provided by the scheme as if they were the occupiers of agricultural land.
- (3) There shall be defrayed out of moneys provided by Parliament any increase attributable to the passing of this section in the contributions which are payable out of moneys so provided by virtue of Part I of the Agriculture Act, 1937.

## **28 Regulations as to importation of livestock**

- (1) The Minister of Food, if he considers it expedient so to do having regard to any arrangement made by him for the purchase of livestock produced in the United Kingdom, may by regulations provide (subject to such exceptions, if any, as may be specified in the regulations) for the marking of livestock imported or brought into the United Kingdom or any class or description thereof.

- (2) If any person—

- (a) contravenes or fails to comply with any regulations made under the preceding subsection ; or
- (b) with intent to deceive, alters or defaces any mark placed on an animal for the purposes of such regulations;

he shall be liable on summary conviction to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

- (3) The Minister of Food, if he considers it expedient so to do having regard to any such arrangement, may also by regulations—

- (a) determine the times and places at which livestock or any class or description thereof may be imported or brought into the United Kingdom from Eire or the Isle of Man;
- (b) make provision as to the routes to be followed by livestock so imported or brought or any class or description thereof, and as to their detention for inspection;

and any regulations made under this subsection may contain such provisions as appear to the said Minister to be necessary for securing the due operation and enforcement of the regulations, including provisions as to the forfeiture of livestock.

Sums retained out of the proceeds of any sale of livestock forfeited under any such provision as aforesaid shall be paid into the Exchequer.

- (4) In this section the expression " livestock " means cattle, sheep and swine.

## **29 Provision for cleansing of channels of watercourses in Scotland**

- (1) Where, on consideration of a report from the Agricultural Executive Committee for any area in Scotland, the Secretary of State is satisfied—

- (a) that any agricultural land in the area of that Committee is being injured or in danger of being injured by reason of the failure of the owner or occupier of any other land to cleanse or scour or to join in cleansing or scouring the channel of any watercourse in, or partly in, or adjoining that other land; and
- (b) that the estimated cost of carrying out any operations necessary to remedy or prevent such injury would not be unreasonable having regard to the benefits to agriculture that would accrue, and would not, in any case, exceed an amount equal to five pounds for each acre of agricultural land benefited by the operations;

the Secretary of State may serve a notice on the owner of the said other land requiring him to carry out within such period as may be specified in the notice such operations necessary in his opinion to remedy or prevent the injury as may be so specified.

- (2) Where the Secretary of State serves a notice on an owner of land in pursuance of the last foregoing subsection, he shall serve a copy of it on the owner of any other land which would in his opinion be affected by the carrying out of the operations specified in the notice.
- (3) Any person on whom a notice or a copy of a notice has been served in pursuance of this section may within fourteen days thereafter make representations to the Secretary of State against the requirements of the notice, and the Secretary of State shall consider such representations and may thereafter withdraw the notice or confirm it with or without modification.
- (4) Where the requirements of any notice served under subsection (1) of this section, against which no representations have been made under subsection (3) thereof or of any such notice which has been confirmed with or without modification in pursuance of the last mentioned subsection, have not been complied with within the period specified in the notice, the Secretary of State may carry out the operations therein specified and may require the person on whom the notice was served to pay the expense reasonably incurred in carrying out the operations:

Provided that—

- (i) if it appears to the Secretary of State that the necessity for the aforesaid operations is due in whole or in part to the neglect of the owner of any land other than that belonging to the person on whom the notice was served or that any benefit has accrued or is expected to accrue in consequence of the carrying out of the operations to the owner of any land other than as aforesaid, the Secretary of State may require the owner of that other land to pay such proportion of the aforesaid expense as in all the circumstances seems just; and
  - (ii) any person required to pay the whole or any part of such expense may, within fourteen days after being so required, appeal to the Scottish Land Court against the requirement.
- (5) Any sum which an owner of land is required to pay in pursuance of the foregoing provisions of this section shall be recoverable from him by the Secretary of State.

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- (6) The Secretary of State may, out of moneys provided by Parliament, make grants of such amounts and subject to such conditions as the Treasury may approve to owners of land in respect of expense incurred by or recoverable from them in pursuance of this section, and where any grant is made in respect of expense so recoverable, the amount of the grant shall be deducted from the sum to be so recovered.
- (7) Any person authorised in that behalf by the Secretary of State for the purpose of carrying his powers under this section into effect may, on production if so required of his authority, enter on and inspect any land and take measurements and observations by such methods as the Secretary of State may deem necessary, and any person who obstructs or prevents such entry, inspection or taking of measurements or observations, shall be liable on summary conviction to a fine not exceeding twenty pounds.
- (8) Nothing in this section shall affect the right of the owner of any land to recover from the occupier thereof under any lease or other contract the amount of any expense incurred by or recovered from such owner under this section.
- (9) Any expense incurred by the Secretary of State in pursuance of this section, so far as not recovered in accordance therewith, shall, to such amount as the Treasury may sanction, be defrayed out of moneys provided by Parliament.
- (10) In this section the expression " watercourse " includes any stream, ditch, drain (whether open or closed), cut, culvert, dyke, or sluice; and the expression " Agricultural Executive Committee " means a committee to which the Secretary of State has delegated any of his powers under regulations made under the Emergency Powers (Defence) Act, 1939.

### 30 Definitions

- (1) For the purposes of this Act—
  - (a) the expression " owner", in relation to land, means the person who is receiving the rack-rent of the land, whether on his own account or as agent or trustee for any other person, or who would so receive the rackrent of the land if it were let at a rackrent, and in this definition the expression "rackrent" has the same meaning as in the Public Health Act, 1936;
  - (b) the expression " War Agricultural Executive , Committee " means—
    - (i) in relation to a county, the committee for that county the members whereof are authorised to exercise as respects land in that county any powers of the Minister under regulations made under the Emergency Powers (Defence) Act, 1939; and
    - (ii) in relation to a county borough, the committee the members whereof are authorised to exercise within that borough any of the powers aforesaid;
  - (c) the expression " war period" means the period for which the Emergency Powers (Defence) Act, 1939, is in force.
- (2) For the purposes of this Part of this Act—
  - (a) the expression " agricultural holding " means a holding within the meaning of the Agricultural Holdings Act, 1923;
  - (b) the expression " the Minister" means the Minister of Agriculture and Fisheries.

**31 Application to Scotland**

This Act shall apply to Scotland subject to the following modifications:—

- (1) In this Part of this Act—
  - (a) for any reference to the Minister of Agriculture and Fisheries there shall be substituted a reference to the Secretary of State;
  - (b) for references to the Agricultural Holdings Act, 1923, and to a contract of tenancy within the meaning of that Act, there shall be respectively substituted references to the Agricultural Holdings (Scotland) Acts, 1923 and 1931, and to a lease within the meaning of those Acts;
  - (c) for any reference to the War Agricultural Executive Committee for a county or a county borough there shall be substituted a reference to the Agricultural Executive Committee for any area to which the Secretary of State has delegated any of his powers under regulations made under the Emergency Powers (Defence) Act, 1939;
  - (d) for any reference to such a council as is mentioned in section twenty-one of the Land Settlement (Facilities) Act, 1919, there shall be substituted a reference to a local authority within the meaning of section twenty-two of the Land Settlement (Scotland) Act, 1919;
  - (e) the expression " owner " has the like meaning as in the Public Health (Scotland) Act, 1897.
- (2) Section twenty-three of this Act shall have effect as if—
  - (a) for any reference in subsection (6) to an arbitrator there were substituted a reference to the Scottish Land Court, and
  - (b) for subsection (7) the following subsection were substituted:—
 

“(7) It shall be competent for the Secretary of State to make in favour of himself a charging order for any amount payable to him under subsection (5) of this section charging and burdening the land in respect of which the amount is payable, and the provisions of section twenty-two of the Housing (Scotland) Act, 1925, shall, with the following and any other necessary modifications, apply to any such charging order:—

    - (a) for any reference to an annuity there shall be substituted a reference to the amount charged;
    - (b) for references to Part I of the said Act of 1925 there shall be substituted references to this Act;
    - (c) subsections (4) and (6) of the said section twenty-two shall not apply.”
- (3) Section twenty-six of this Act shall have effect as if for any reference in subsection (2) to an arbitrator there were substituted a reference to the Scottish Land Court.
- (4) Part III of this Act shall not apply.
- (5) For the purpose of determining any appeal to them or any question required to be determined by them under this Act, the Scottish Land Court shall have the like powers as they have under the Small Landholders (Scotland) Acts, 1886 to 1931, for the purpose of the determination of matters referred to the said Court thereunder, and those Acts shall apply accordingly subject to any necessary modifications.

## **32 Application to Northern Ireland**

- (1) Part III of this Act and sections twenty-four, twenty-six and twenty-nine of this Act shall not extend to Northern Ireland and, in the application of the other provisions of this Act to Northern Ireland, the modifications hereafter specified in this section shall be made.
- (2) In section twenty-three—
  - (a) references to the Minister shall be construed as references to the Secretary of State or any Ministry in Northern Ireland which is authorised to exercise as respects land in Northern Ireland any powers of the Secretary of State under regulations made under the Emergency Powers (Defence) Act, 1939;
  - (b) any reference to the War Agricultural Executive Committee for a county or county borough shall be omitted;
  - (c) in subsection (4) the words from " and any such contract " to the end of the subsection shall be omitted, and the reference to the occupation of land shall include a reference to the use of land in conacre;
  - (d) in subsection (7) the words " under the Law of Property Act, 1925, and otherwise " shall be omitted;
  - (e) the expression " rules of good husbandry ", in relation to land in Northern Ireland, shall have the meaning which it would have by virtue of the Agricultural Holdings Act, 1923 if the land were an agricultural holding in England.
- (3) In section twenty-five, references to the Minister shall be construed as references to the Secretary of State.
- (4) In paragraph (a) of subsection (1) of section thirty, a reference to the Public Health (Ireland) Act, 1878, shall be substituted for the reference to the Public Health Act, 1936.
- (5) In paragraph 3 of the Third Schedule, a reference to the first day of June shall be substituted for the reference to the fourth day of June.

## **33 Short title**

This Act may be cited as the Agriculture (Miscellaneous War Provisions) Act, 1940.